

MEMO ENDORSED

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BY ECF

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Hon. Valerie E. Caproni
United States District Court
Southern District of New York
40 Foley Square, Room 240
New York, New York 10007

**Re: *SS&C Technologies Holdings, Inc. and Advent Software Inc. v. Arcesium LLC*,
No. 1:22-cv-02009-VEC**

Dear Judge Caproni:

Plaintiffs SS&C Technologies Holdings, Inc. and Advent Software, Inc. (collectively, “SS&C”) and Defendant Arcesium LLC (collectively, the “Parties”), jointly and respectfully submit this request to redact certain portions of Plaintiffs’ First Amended Complaint (“FAC”) and file the unredacted version of the FAC under seal.

Plaintiffs commenced this action on March 10, 2022 alleging misappropriation of trade secrets, breach of contract, unfair competition, and breach of the covenant of good faith and fair dealing. The FAC contains references and quotes from documents produced and designated as confidential by Arcesium.

While a presumption of public access applies to judicial documents, *e.g.*, documents relevant to the performance of the judicial function and useful in the judicial process, the weight of the presumption is “governed by the role of the material at issue” and the resulting value of such information to the public. *Lugosch v. Pyramid Co. of Onondaga*, 435 F.3d 110, 119 (2d Cir. 2006). Courts must also balance against the weight of the presumption any countervailing factors such as “the privacy interests of those resisting disclosure” including “the degree to which the subject matter is traditionally considered private rather than public” and the “nature and degree of injury” resulting from disclosure. *Id.* at 120.

Here, the proposed redacted portions of the FAC contain information that Arcesium has designated confidential under the Protective Order. This includes confidential commercial information concerning Arcesium’s sales and business development strategies, including but not limited to development of proprietary technologies. This type of information is regularly deemed protected because disclosure “might harm a litigant’s competitive standing.” *In re Parmalat Sec. Litig.*, 258 F.R.D. 236, 244 (S.D.N.Y. 2009) (quoting *Nixon v. Warner Commc’ns, Inc.*, 435 U.S. 589, 598, 98 S.Ct. 1306, 55 L.Ed.2d 570 (1978)); *ExpertConnect, L.L.C. v. Fowler*, 2019 WL 3004161, at *5 (S.D.N.Y. July 10, 2019); *Dodona I, LLC v. Goldman, Sachs & Co.*, 119 F. Supp. 3d 152, 166 (S.D.N.Y. 2015); *see also Fitzpatrick v. Am. Int’l Grp., Inc.*,

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No. 10-142, 2012 WL 5838194, at *1 (S.D.N.Y. Oct. 26, 2012) (granting motion for leave to make redactions to remove “pricing information”).

Accordingly, the Parties respectfully submit this request to redact certain portions of the FAC and to file the unredacted version of the FAC under seal.

Respectfully submitted,

/s/ Christopher LaVigne

Christopher LaVigne

cc: Counsel of record for Arcesium (via ECF)

Application GRANTED.

SO ORDERED.



Date: 5/25/2022

HON. VALERIE CAPRONI
UNITED STATES DISTRICT JUDGE